

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION

ALAN DOERING
ADC #106115

PLAINTIFF

v. No. 2:19-cv-156-DPM-JTR

ASA HUTCHINSON, Governor, Arkansas, *et al.* DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts Magistrate Judge Ray's partial recommendation, *Doc. 52*, and overrules Doering's objection, *Doc. 56*. FED. R. CIV. P. 72(b)(3) addition to advisory committee notes). First motion to dismiss, *Doc. 19*, partly granted and partly denied. Doering's official capacity claims for money damages are all dismissed with prejudice. His official capacity claims for prospective injunctive relief against Hutchinson, Kelley, Payne, Lay, and Griffin are dismissed with prejudice, too. Doering's individual capacity claims against Kelley, Payne, and Lay are dismissed without prejudice. The Court directs the Clerk to terminate Hutchinson, Kelley, Payne, and Lay as Defendants. Defendants' second motion to dismiss, *Doc. 43*, remains pending.

2. Doering objects to the proposed denial of preliminary injunctive relief. *Doc. 56*. His motion states that "Covid-19 has food portions very small, so me missing two meals every week has me starving and suffering physically and emotionally." *Doc. 38*. This

allegation is concerning; but without more, it is conclusory and doesn't prove that irreparable harm is likely without an injunction. For example, Doering hasn't offered evidence that he's lost weight or suffered adverse health consequences from missing these meals. His motion, *Doc. 38*, is therefore denied without prejudice. *Goff v. Harper*, 60 F.3d 518, 520 (8th Cir. 1995); *Dakota Industries, Inc. v. Ever Best Ltd.*, 944 F.2d 438, 440 (8th Cir. 1991).

So Ordered.

W.P. Marshall Jr.

D.P. Marshall Jr.

United States District Judge

18 March 2021